

AMENDED IN SENATE JUNE 10, 1999

AMENDED IN SENATE MAY 28, 1999

AMENDED IN SENATE MAY 25, 1999

AMENDED IN SENATE APRIL 27, 1999

AMENDED IN SENATE APRIL 8, 1999

SENATE BILL**No. 1277**

Introduced by Senator Hayden

February 26, 1999

An act to add Section 5012.3 to the Public Resources Code, relating to state property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1277, as amended, Hayden. State property: roads: construction and improvements.

Existing law provides for the administration, operation, and maintenance of units of the state park system. Existing law also provides for the protection and preservation of ecological reserves and coastal lands in the state.

This bill would prohibit a state or local agency from constructing, ~~approving or seeking a permit for the approval of or approving~~ the construction of any public road, or from making any improvement to an existing road, that substantially increases capacity, in or through any unit of the state park system regardless of whether the property is held in fee simple, is leased, or is otherwise preserved under a conservation easement. However, the bill would authorize

the construction of a road through a unit of the state park system if the Secretary of Business, Transportation, and Housing and the Secretary of the Resources Agency jointly make one of specified findings, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of
2 the following:

3 (a) Legislation that will protect the integrity of units
4 of the state parks system and other land reserves that
5 have been established to protect natural resource,
6 cultural, and historical values is urgently needed.

7 (b) California is recognized as a state with a greater
8 diversity of life than in any other area of comparable size
9 in the United States, and is recognized as a global hot spot
10 of biodiversity and a center of animal species extinction
11 risk due to human use and activities that degrade the
12 environment. Units of the state park system and other
13 land and wildlife reserve areas provide for the protection
14 of California's biodiversity, and serve to protect
15 irreplaceable and valuable natural resources.

16 (c) The maintenance of units of the state park system
17 is essential to the health and spiritual well-being of all
18 Californians, and state parks are a part of the public trust
19 that involve a substantial investment of public funds.

20 (d) The greatest known threat to biodiversity is the
21 loss and fragmentation of habitat. In order to preserve the
22 integrity of state parks and to ensure their preservation
23 in perpetuity, those parks should be protected against
24 that habitat loss and fragmentation. The construction of
25 roads and other projects in parks and reserves can result
26 in both habitat loss and fragmentation, thereby causing
27 serious degradation of the state's natural resources.

28 SEC. 2. Section 5012.3 is added to the Public
29 Resources Code, to read:

30 5012.3. (a) As used in this section, the following terms
31 have the following meanings:



(1) “Local agency” means a city, county, city and county, district, district association of governments, joint powers authority, public agency, political subdivision, or public or municipal corporation in this state.

(2) “Road” means a highway, street, or toll road, as defined by Sections 360, 590, and 611, respectively, of the Vehicle Code.

(3) “State agency” means an agency of the state, including a department, division, bureau, board, commission, or any other office within a state agency.

(b) No state or local agency may construct, ~~approve,~~ ~~or seek a permit for the approval of~~ *or approve* the construction of any public road, or make any improvement to an existing road, that substantially increases capacity, in or through any unit of the state park system, regardless of whether the property is held in fee simple, is leased, or is otherwise preserved under a conservation easement.

(c) (1) Notwithstanding the prohibition set forth in subdivision (b), a road may be constructed through a unit of the state park system if the Secretary of the Business, Transportation, and Housing Agency and the Secretary of the Resources Agency jointly make one of the following findings:

(A) The road is necessary for the operation, maintenance, or use of the unit.

(B) The road is necessary for the prevention of fires occurring in the unit.

(C) The road is necessary for the construction, operation, or maintenance of utilities located in the unit.

(D) That on January 1, 2000, the road has already been adopted as a necessary part of the unit’s general plan, pursuant to Sections 5002.2 and 5002.3; that the road would not likely jeopardize the current uses of the affected unit; that the road project includes all feasible planning to minimize harm to the unit; and that any impacts of the construction on the unit are fully mitigated.

(2) If any costs are incurred by the state as a result of making the findings specified in paragraph (1), those

1 costs may be recovered by fees imposed on the project
2 proponents.

3 (d) (1) A person or class of persons may file a civil
4 action to enjoin any other person or entity, including a
5 state agency or any other governmental entity or agency,
6 that is alleged to be in violation of this section.

7 (2) Any civil action brought pursuant to paragraph (1)
8 may be brought in the superior court in the county in
9 which the violation occurs.

10 (3) Any injunctive relief provided pursuant to this
11 subdivision shall not restrict any other right that a person
12 or class of persons may have under a statute or common
13 law, including the right to seek other legal remedies
14 against the state, or a local government.

